

## EXHIBIT 5

202.777.8950 (t) 202.347.8429 (f)	Bowen Building 875 15th Street, NW, Suite 725 Washington DC 20005
415.956.2828 (t) 415.956.6457 (f) <a href="http://www.rjo.com">www.rjo.com</a>	Robert Dollar Building 311 California Street, 10th Flr. San Francisco CA 94104

## ROGERS JOSEPH O'DONNELL

Lisa N. Himes  
202.777.8953 (d)  
lhimes@rjo.com

December 27, 2018

### VIA EMAIL AND FEDERAL EXPRESS

Commandant (CG-611)  
United States Coast Guard  
ATTN: FOIA APPEALS  
2703 Martin Luther King Ave., S.E.  
STOP 7710  
Washington, D.C. 20593-7710  
EFOIA@uscg.mil  
CG6EXECSEC@uscg.mil  
Paul.d.limbacher.civ@mail.smil.mil

**Re: FOIA Appeal – Request No. 2018-CGFO-01591**

To Whom It May Concern:

On behalf of client, Tim Blixseth, this letter serves as an appeal of the adverse determination by the United States Coast Guard (“Coast Guard”) in the above-referenced FOIA case.

### Background

The attached FOIA Request was submitted to the Coast Guard on April 17, 2018 via email (EFOIA@uscg.mil) and first class mail. *See Exhibit 1.* The Request seeks the following records:

1. All documents from the period of January 1, 2010 through December 31, 2010 that refer or relate to Blixseth, Piano Bar, or Yellowstone Aviation & Marine.
2. All emails from any and all of former U.S. Commandant Robert J. Papp, Jr.’s email accounts from the period of May 25, 2010 through December 31, 2010, referencing:
  - a. Piano Bar
  - b. Yellowstone
  - c. Yellowstone Aviation & Marine
  - d. Blixseth

On May 4, 2018, the Coast Guard FOIA/PA Office acknowledged receipt of the Request and assigned it FOIA[PA] number 2018-CGFO-01591. *See Exhibit 2.* In its acknowledgement email, the Coast Guard stated that it had received the Request on May 4, 2018. *See id.*

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Commandant (CG-611)  
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However, the May 4, 2018 email includes as an attachment an internal forwarding email from August 25, 2018 and the Coast Guard's final response asserted that the Request was received on August 21, 2018. *See id; see infra* Exhibit 4. In any event, the Request was sent via email and first class mail on April 17, 2018 at 1:15 pm EDT.

Between June 18, 2018 and September 17, 2018, the undersigned counsel for Mr. Blixseth left voicemail messages and corresponded via email with several individuals in the Coast Guard FOIA/PA Office, including Amanda Ackerson, Jonathan Griffie, Thelma Flood, Devin Fox, and Anika Doebl regarding the lack of any response as to the status of the Request. *See Exhibit 3.*

On October 3, 2018, the Coast Guard issued its final and only substantive response to the Request. *See Exhibit 4.* In its response, the Coast Guard stated that it had conducted a comprehensive search and was unable to locate any responsive records. *See id.* The agency further asserted that records from the 2010 timeframe would have been destroyed by the start of 2014 as "general Coast Guard correspondence and general records are required to be disposed of three years after creation." *See id.*

### Argument

The Coast Guard's search for responsive records was completely inadequate. "The adequacy of an agency's search is measured by a standard of reasonableness, and is dependent upon the circumstances of the case." *Truitt v. Dep't of State*, 897 F.2d 540, 542 (D.C. Cir. 1990) (internal quotation marks omitted). "To satisfy its burden to show that no genuine issue of material fact exists as to the adequacy of its search, the agency must show that each agency component 'has conducted a search reasonably calculated to uncover all relevant documents.'" *Heffernan v. Azar*, No. 15-2194 (RBW), 2018 U.S. Dist. LEXIS 106985, \*9-10 (D.D.C. June 27, 2018) (quoting *Elliott v. USDA*, 596 F.3d 842, 851 (D.C. Cir. 2010)). The Coast Guard has utterly failed to do so here.

In 2010, Mr. Blixseth's yacht, Piano Bar, was intercepted by the Coast Guard. Under its own policies, the Coast Guard is required to create and maintain all investigative files for any such activities, and as such, there must be responsive investigative records maintained by the Coast Guard in response to this Request. Moreover, the Coast Guard failed to search the records of several Coast Guard components, including but not limited to the Office of Commercial Vessel Compliance (CG-CVC).

Additionally, the Coast Guard's response that the applicable records would have been destroyed under the Coast Guard Information and Life Cycle Management Manual is entirely inaccurate. The records at issue here are not "general Coast Guard correspondence and general

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records.” Instead, they include documents, such as investigative files, regarding Blixseth, Piano Bar, and Yellowstone Aviation & Marine. There is no question that under the Coast Guard’s own internal policies, investigative files must be created to intercept a personal yacht, and such records must be maintained for a minimum of 10 years.

Accordingly, the agency’s search was completely inadequate in failing to locate a single document regarding such investigative activities. *See In Def. of Animals v. NIH*, 543 F. Supp. 2d 83, 93 (D.D.C. Apr. 14, 2008) (finding that, “[a]t a minimum, a good faith search effort uses methods that can be reasonably expected to produce the information requested”); *see also Oglesby v. Dep’t of Army*, 920 F.2d 57, 68 (D.C. Cir. 1990) (“[T]he agency cannot limit its search to only one record system if there are others that are likely to turn up the information requested”).

Please respond to this appeal as soon as possible and in accordance with 6 C.F.R. § 5.8 to ensure that my client is able to properly pursue all available remedies as promptly as possible.

Best regards,



Lisa N. Himes

# EXHIBIT 1

**Lisa N. Himes**

---

**From:** Lisa N. Himes  
**Sent:** Tuesday, April 17, 2018 1:15 PM  
**To:** EFOIA@uscg.mil  
**Subject:** Blixseth/FOIA Request  
**Attachments:** Commandant re Tim Blixseth FOIA Request 4.17.18.pdf

To Whom It May Concern,

Attached please find a FOIA request, which is being mailed as well. Feel free to contact me with any questions.

Best regards,  
Lisa Norrett Himes

**Lisa Norrett Himes | Of Counsel**  
**ROGERS JOSEPH O'DONNELL | a Professional Law Corporation**  
875 15th Street, N.W., Suite 725 | Washington, D.C. 20005  
202.777.8953 direct | 202.347.8429 fax

311 California Street, 10th fl | San Francisco, CA 94104

415.956.2828 main | 415.956.6457 fax

[lhimes@rjo.com](mailto:lhimes@rjo.com)  
[www.rjo.com](http://www.rjo.com)

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**ROGERS JOSEPH O'DONNELL**

Lisa N. Himes  
202.777.8953 (d)  
lhimes@rjo.com

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415.956.2828 (t)	Robert Dollar Building
415.956.6457 (f)	311 California Street, 10th Flr.
	San Francisco CA 94104
	www.rjo.com

April 17, 2018

**VIA EMAIL AND FIRST CLASS MAIL**

Commandant (CG-611)  
Attn: FOIA Officer  
U.S. Coast Guard Stop 7710  
2703 Martin Luther King Jr. Ave, S.E.  
Washington, D.C. 20593-7710  
Email: EFOIA@uscg.mil

**Re: Freedom of Information Act Request**

To Whom It May Concern:

On behalf of client, Tim Blixseth, Rogers Joseph O'Donnell, PC makes this request for the records described below pursuant to the Freedom of Information Act, 5 U.S.C. § 552.

We request that you adhere to the time limitations set forth in 5 U.S.C. § 552(a)(6)(A). We also ask that you forward information related to any individual request without waiting until all records are located (i.e., please provide records on a rolling basis). If you determine that a record contains material exempt from disclosure, please review it for possible discretionary disclosure. In addition, we request that you produce any and all segregable portions of the record in question. Please notify me when responsive records are either furnished or specifically identified and denied for release. If no records exist for any request, please provide written confirmation of same.

We further request that, pursuant to 5 U.S.C. § 552(a)(3)(B), your agency produce responsive documents in the native electronic format in which the document was created. To the extent that your agency is unable to produce the responsive documents in the requested format, we request that your agency confirm that the record does not exist in native format and produce the documents in the following format, listed in accordance with our preference: 1) PDF format; or 2) paper copy. While the burden is on the government to produce all documents within the required time period, we are willing to discuss and agree upon the means and sequence of production to facilitate government compliance with the law.

To the extent that you determine that any subject document will not be disclosed because it meets any of the criteria in the FOIA for nondisclosure, you are requested to identify such documents in accordance with the requirements of *Vaughn v. Rosen*, 523 F.2d 1136 (D.C. Cir. 1975). To the extent that you determine that any subject document will not be disclosed because it is classified in accordance with document classification procedures of your Department,

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Commandant (CG-611)

April 17, 2018

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request is hereby made that such document be declassified or redacted sufficiently to enable useful review and inclusion of its identifying characteristics under *Vaughn v. Rosen*.

**REQUESTED DOCUMENTS**

Please provide the following records<sup>1</sup> to the undersigned:

1. All documents<sup>2</sup> from the period of January 1, 2010 through December 31, 2010 that refer or relate to Blixseth, Piano Bar, or Yellowstone Aviation & Marine.
2. All emails from any and all of former U.S. Commandant Robert J. Papp, Jr.'s email accounts from the period of May 25, 2010 through December 31, 2010, referencing:
  - a. Piano Bar
  - b. Yellowstone
  - c. Yellowstone Aviation & Marine
  - d. Blixseth

We are willing and able to pay all reasonable and applicable fees in connection with this request as required under statute and regulation. We request prior notice only if you determine that such costs will exceed \$1,000. Please feel free to contact me by phone (202-777-8953) or by email (lhimes@rjo.com) if you have any questions about this request or need further information.

Best regards,



Lisa N. Himes

<sup>1</sup> An "agency record" includes "the products of data compilation, such as all books, papers, maps, photographs, and machine readable materials, inclusive of those in electronic form or format, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law in connection with the transaction of public business and in DA possession and control at the time the FOIA request is made." 32 CFR § 518.7(b).

<sup>2</sup> As used herein, the term "document" should be interpreted broadly to include anything that constitutes an "agency record" including, but not limited to, emails and other electronic communications.

## EXHIBIT 2

**Lisa N. Himes**

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**From:** efoia@uscg.mil  
**Sent:** Friday, May 4, 2018 8:05 AM  
**To:** Lisa N. Himes  
**Subject:** RE: Your Freedom of Information Act (FOIA)/Privacy Act (PA) 2018-CGFO-01591  
**Attachments:** FW FOIA Request (INV)1.msg

Mrs. Himes,

This acknowledges receipt of your April 17, 2018, Freedom of Information Act (FOIA) request to the U.S. Coast Guard (USCG). Your request was received on May 04, 2018 and has been assigned FOIA[PA] number 2018-CGFO-01591.

We have queried the appropriate component of the USCG for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

You may check the status of your request by entering FOIA[PA] request number 2018-CGFO-01591 into the following site: <http://www.dhs.gov/foia-status>. Request status is updated and refreshed on a nightly basis electronically.

You may contact this office via telephone at 202-475-3522 or via email at [EFOIA@uscg.mil](mailto:EFOIA@uscg.mil) if you have any further questions.

Sincerely,

U.S. Coast Guard  
FOIA/PA Office

**Lisa N. Himes**

---

**From:** Griffie, Jonathan A CTR  
**Sent:** Wednesday, April 25, 2018 1:34 PM  
**To:** HQS-SMB-FOIA  
**Subject:** FW: FOIA Request (INV)  
**Attachments:** 1540779208\_042518\_132749.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

-----Original Message-----

From: Jonathan.A.Griffie@uscg.mil <Jonathan.A.Griffie@uscg.mil>  
Sent: Wednesday, April 25, 2018 1:28 PM  
To: Griffie, Jonathan A CTR <Jonathan.A.Griffie@uscg.mil>  
Subject:

**ROGERS JOSEPH O'DONNELL**

Lisa N. Himes  
202.777.8953 (d)  
lhimes@rjo.com

202.777.8950 (t) 202.347.8429 (f)	Bowen Building 875 15th Street, NW, Suite 725 Washington DC 20005
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April 17, 2018

**VIA EMAIL AND FIRST CLASS MAIL**

Commandant (CG-611)  
Attn: FOIA Officer  
U.S. Coast Guard Stop 7710  
2703 Martin Luther King Jr. Ave, S.E.  
Washington, D.C. 20593-7710  
Email: EFOIA@uscg.mil

**Re: Freedom of Information Act Request**

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We further request that, pursuant to 5 U.S.C. § 552(a)(3)(B), your agency produce responsive documents in the native electronic format in which the document was created. To the extent that your agency is unable to produce the responsive documents in the requested format, we request that your agency confirm that the record does not exist in native format and produce the documents in the following format, listed in accordance with our preference: 1) PDF format; or 2) paper copy. While the burden is on the government to produce all documents within the required time period, we are willing to discuss and agree upon the means and sequence of production to facilitate government compliance with the law.

To the extent that you determine that any subject document will not be disclosed because it meets any of the criteria in the FOIA for nondisclosure, you are requested to identify such documents in accordance with the requirements of *Vaughn v. Rosen*, 523 F.2d 1136 (D.C. Cir. 1975). To the extent that you determine that any subject document will not be disclosed because it is classified in accordance with document classification procedures of your Department,

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Commandant (CG-611)

April 17, 2018

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request is hereby made that such document be declassified or redacted sufficiently to enable useful review and inclusion of its identifying characteristics under *Vaughn v. Rosen*.

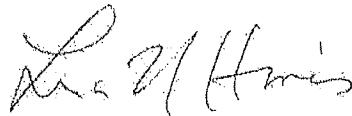
**REQUESTED DOCUMENTS**

Please provide the following records<sup>1</sup> to the undersigned:

1. All documents<sup>2</sup> from the period of January 1, 2010 through December 31, 2010 that refer or relate to Blixseth, Piano Bar, or Yellowstone Aviation & Marine.
2. All emails from any and all of former U.S. Commandant Robert J. Papp, Jr.'s email accounts from the period of May 25, 2010 through December 31, 2010, referencing:
  - a. Piano Bar
  - b. Yellowstone
  - c. Yellowstone Aviation & Marine
  - d. Blixseth

We are willing and able to pay all reasonable and applicable fees in connection with this request as required under statute and regulation. We request prior notice only if you determine that such costs will exceed \$1,000. Please feel free to contact me by phone (202-777-8953) or by email (lhimes@rjo.com) if you have any questions about this request or need further information.

Best regards,



Lisa N. Himes

<sup>1</sup> An "agency record" includes "the products of data compilation, such as all books, papers, maps, photographs, and machine readable materials, inclusive of those in electronic form or format, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law in connection with the transaction of public business and in DA possession and control at the time the FOIA request is made." 32 CFR § 518.7(b).

<sup>2</sup> As used herein, the term "document" should be interpreted broadly to include anything that constitutes an "agency record" including, but not limited to, emails and other electronic communications.

## EXHIBIT 3

**Lisa N. Himes**

---

**From:** Lisa N. Himes  
**Sent:** Monday, September 17, 2018 1:02 PM  
**To:** 'Doehl, Anika YNC'  
**Cc:** EXEC, USCG SMB  
**Subject:** RE: Your Freedom of Information Act (FOIA)/Privacy Act (PA) 2018-CGFO-01591

Anika,

I left you a voicemail following up on the status. Can you give me a call or email me?

Thanks,  
Lisa

**Lisa Norrett Himes | Of Counsel**  
**ROGERS JOSEPH O'DONNELL | a Professional Law Corporation**  
875 15th Street, N.W., Suite 725 | Washington, D.C. 20005  
202.777.8953 direct | 202.347.8429 fax

311 California Street, 10th fl | San Francisco, CA 94104  
415.956.2828 main | 415.956.6457 fax  
[lhimes@rjo.com](mailto:lhimes@rjo.com)  
[www.rjo.com](http://www.rjo.com)

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**From:** Doebl, Anika YNC <[Anika.Doebl@uscg.mil](mailto:Anika.Doebl@uscg.mil)>  
**Sent:** Thursday, September 6, 2018 6:08 PM  
**To:** Lisa N. Himes <[LHimes@rjo.com](mailto:LHimes@rjo.com)>  
**Cc:** EXEC, USCG SMB <[USCG.EXEC@uscg.mil](mailto:USCG.EXEC@uscg.mil)>  
**Subject:** RE: Your Freedom of Information Act (FOIA)/Privacy Act (PA) 2018-CGFO-01591

Good afternoon Ma'am,

My apologies for not reviewing my voice messages and not replying in a timely matter. A draft response was prepared on 9/5 and is currently with our Front Officer Leadership for final review before it is signed. I will notify you as soon as the response is cleared and signed. Please let me know if you have any additional questions, thank you.

Sincerely,  
Anika

Very respectfully,  
Chief Anika Doebl  
Office of the Commandant  
Executive Secretariat

202-372-4438

**From:** Lisa N. Himes <[LHimes@rjo.com](mailto:LHimes@rjo.com)>  
**Sent:** Thursday, September 6, 2018 5:46 PM  
**To:** Doebl, Anika YNC <[Anika.Doebl@uscg.mil](mailto:Anika.Doebl@uscg.mil)>  
**Subject:** [Non-DoD Source] RE: Your Freedom of Information Act (FOIA)/Privacy Act (PA) 2018-CGFO-01591

Anika,

I have left you some voicemail messages and still have not heard anything from you on this request. You mentioned that this was a priority and you were looking into it right away.

Please contact me as soon as possible.

Thank you,  
Lisa

**From:** Lisa N. Himes  
**Sent:** Monday, August 13, 2018 5:02 PM  
**To:** 'anika.doebl@uscg.mil' <[anika.doebl@uscg.mil](mailto:anika.doebl@uscg.mil)>  
**Subject:** FW: Your Freedom of Information Act (FOIA)/Privacy Act (PA) 2018-CGFO-01591

Anika,

Per our conversation, below is the information I mentioned. Please let me know as soon as possible the status on this request.

Thank you,  
Lisa

**Lisa Norrett Himes | Of Counsel**  
ROGERS JOSEPH O'DONNELL | a Professional Law Corporation  
875 15th Street, N.W., Suite 725 | Washington, D.C. 20005  
202.777.8953 direct | 202.347.8429 fax

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[Lhimes@rjo.com](mailto:Lhimes@rjo.com)  
[www.rjo.com](http://www.rjo.com)

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**From:** Flood, Thelma R CIV <[Thelma.R.Flood@uscg.mil](mailto:Thelma.R.Flood@uscg.mil)>  
**Sent:** Friday, August 10, 2018 1:49 PM  
**To:** Lisa N. Himes <[LHimes@rjo.com](mailto:LHimes@rjo.com)>  
**Subject:** RE: Your Freedom of Information Act (FOIA)/Privacy Act (PA) 2018-CGFO-01591

Good evening Ms. Himes,

Please reach out to YN2 Devin Fox in regards to an update status on your request.

He can be reached at (202) 372-4400. His email address is: [Devin.C.Fox@uscg.mil](mailto:Devin.C.Fox@uscg.mil). Please provide him with the subject FOIA request number for tracking purposes.

v/r

Thelma Flood  
CG-DCO Directorate FOIA Coordinator  
United States Coast Guard Headquarters  
Tele: 202 372-1284

**From:** Lisa N. Himes <[LHimes@rjo.com](mailto:LHimes@rjo.com)>  
**Sent:** Friday, August 3, 2018 11:26 AM  
**To:** Flood, Thelma R CIV <[Thelma.R.Flood@uscg.mil](mailto:Thelma.R.Flood@uscg.mil)>  
**Subject:** [Non-DoD Source] RE: Your Freedom of Information Act (FOIA)/Privacy Act (PA) 2018-CGFO-01591

Thelma,

Thank you. I left you a voicemail. Please let me know if you hear back from your front office today as you mentioned.

Thanks,  
Lisa

**From:** Flood, Thelma R CIV <[Thelma.R.Flood@uscg.mil](mailto:Thelma.R.Flood@uscg.mil)>  
**Sent:** Friday, August 3, 2018 9:19 AM  
**To:** Lisa N. Himes <[LHimes@rjo.com](mailto:LHimes@rjo.com)>  
**Subject:** RE: Your Freedom of Information Act (FOIA)/Privacy Act (PA) 2018-CGFO-01591

Good morning Ms. Himes,

I do apologize for just getting back to your email and phone messages. I was out on leave and I'm just returning back to the office. I have left a message with our front office in regards to a status update of your request. As soon as I hear something, I'll reach out to you.

v/r

Thelma Flood  
CG-DCO Directorate FOIA Coordinator  
United States Coast Guard Headquarters  
2703 Martin Luther King Jr. Avenue, SE  
STOP 7501  
Washington, DC 20593-7501  
Email: [Thelma.R.Flood@uscg.mil](mailto:Thelma.R.Flood@uscg.mil)  
Tele: 202 372-1284

**From:** Lisa N. Himes <[LHimes@rjo.com](mailto:LHimes@rjo.com)>  
**Sent:** Wednesday, August 1, 2018 2:52 PM  
**To:** Flood, Thelma R CIV <[Thelma.R.Flood@uscg.mil](mailto:Thelma.R.Flood@uscg.mil)>  
**Subject:** [Non-DoD Source] FW: Your Freedom of Information Act (FOIA)/Privacy Act (PA) 2018-CGFO-01591

Ms. Flood,

I have left several voicemail messages for you but have not received any response. Please contact me as soon as possible regarding the status of the above-referenced FOIA request.

Thank you,  
Lisa Himes

**Lisa Norrett Himes | Of Counsel**  
**ROGERS JOSEPH O'DONNELL | a Professional Law Corporation**  
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**From:** Griffie, Jonathan A CTR <[Jonathan.A.Griffie@uscg.mil](mailto:Jonathan.A.Griffie@uscg.mil)>  
**Sent:** Tuesday, July 24, 2018 9:04 AM  
**To:** Lisa N. Himes <[LHimes@rjo.com](mailto:LHimes@rjo.com)>  
**Subject:** RE: Your Freedom of Information Act (FOIA)/Privacy Act (PA) 2018-CGFO-01591

Good Morning,

Ms. Flood can be reached at [Thelma.R.Flood@uscg.mil](mailto:Thelma.R.Flood@uscg.mil).

**From:** Lisa N. Himes <[LHimes@rjo.com](mailto:LHimes@rjo.com)>  
**Sent:** Monday, July 9, 2018 6:25 PM  
**To:** HQS-SMB-FOIA <[EFOIA@uscg.mil](mailto:EFOIA@uscg.mil)>  
**Subject:** [Non-DoD Source] RE: Your Freedom of Information Act (FOIA)/Privacy Act (PA) 2018-CGFO-01591

Amanda,

I have left several voicemail messages for Thelma Flood and have not received any response. Do you have an email address for her or another contact at that office?

Thank you,  
Lisa

**From:** HQS-SMB-FOIA [mailto:[EFOIA@uscg.mil](mailto:EFOIA@uscg.mil)]

**Sent:** Wednesday, June 20, 2018 9:27 AM

**To:** Lisa N. Himes <[LHimes@rjo.com](mailto:LHimes@rjo.com)>

**Subject:** RE: Your Freedom of Information Act (FOIA)/Privacy Act (PA) 2018-CGFO-01591

Good morning,

Your request was forwarded to the Office of Investigation (INV) for processing and direct response to you. For the current status of your request, please contact Ms. Thelma Flood of INV at 202-372-1284.

Sincerely,

*Amanda C. Ackerson*

Management and Policy Analyst

U.S. Coast Guard (CG-611)

Office of Information Management

2703 MARTIN LUTHER KING JR AVE SE STOP 7710

WASHINGTON DC 20593-7710

Phone: 202-475-3522

Fax: 202-372-8413

**From:** Lisa N. Himes <[LHimes@rjo.com](mailto:LHimes@rjo.com)>

**Sent:** Monday, June 18, 2018 6:57 PM

**To:** HQS-SMB-FOIA <[EFOIA@uscg.mil](mailto:EFOIA@uscg.mil)>

**Subject:** [Non-DoD Source] RE: Your Freedom of Information Act (FOIA)/Privacy Act (PA) 2018-CGFO-01591

US Coast Guard FOIA/PA Office,

I left a voicemail message for Samantha Atherson (sp?) earlier today at the number provided below. Please contact me as soon as possible to discuss the status of this request.

Thank you,

Lisa Norrett Himes

**Lisa Norrett Himes | Of Counsel**

ROGERS JOSEPH O'DONNELL | a Professional Law Corporation

875 15th Street, N.W., Suite 725 | Washington, D.C. 20005

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**From:** [efoia@uscg.mil](mailto:efoia@uscg.mil) [mailto:[efoia@uscg.mil](mailto:efoia@uscg.mil)]

**Sent:** Friday, May 4, 2018 8:05 AM

**To:** Lisa N. Himes <[LHimes@rjo.com](mailto:LHimes@rjo.com)>

**Subject:** RE: Your Freedom of Information Act (FOIA)/Privacy Act (PA) 2018-CGFO-01591

Mrs. Himes,

This acknowledges receipt of your April 17, 2018, Freedom of Information Act (FOIA) request to the U.S. Coast Guard (USCG). Your request was received on May 04, 2018 and has been assigned FOIA[PA] number 2018-CGFO-01591.

We have queried the appropriate component of the USCG for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

You may check the status of your request by entering FOIA[PA] request number 2018-CGFO-01591 into the following site: <http://www.dhs.gov/foia-status>. Request status is updated and refreshed on a nightly basis electronically.

You may contact this office via telephone at 202-475-3522 or via email at [EFOIA@uscg.mil](mailto:EFOIA@uscg.mil) if you have any further questions.

Sincerely,

U.S. Coast Guard  
FOIA/PA Office

## EXHIBIT 4

**Lisa N. Himes**

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**From:** CG6EXECSEC <CG6EXECSEC@uscg.mil>  
**Sent:** Wednesday, October 3, 2018 3:22 PM  
**To:** Lisa N. Himes  
**Cc:** HQS-SMB-FOIA  
**Subject:** Your Freedom of Information Act (FOIA)/Privacy Act (PA) 2018-CGFO-01591  
**Attachments:** DOC SF-1 600-310 signed 1591.pdf

Good day Ma'am,

Please find attached the response letter from the Coast Guard for this request.

Thank you,

Paul

Paul D. Limbacher  
CG-6 ExecSec  
CG6EXECSEC@uscg.mil  
SIPR: Paul.d.limbacher.civ@mail.smil.mil  
COMDT CG-6ES  
(202) 475-3460

U.S. Department of  
Homeland Security



United States  
Coast Guard

Commandant  
United States Coast Guard

2703 Martin Luther King Ave, S.E.  
Washington, DC 20593-7710  
Staff Symbol: CG-6ES  
Phone: (202) 475-3460  
CG6EXECSEC@uscg.mil

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FOIA 01591

Ms. Lisa N. Himes  
Rogers Joseph O'Donnell  
875 5<sup>th</sup> Street NW  
Suite 725  
Washington DC 20005

Dear Ms. Himes:

This letter is the final response to your April 17<sup>th</sup>, 2018 Freedom of Information Act (FOIA) request addressed to the U.S. Coast Guard (USCG). You requested copies of:

1. All documents from the period of January 1, 2010 through December 31, 2010 that refer to Blixseth, Piano Bar, or Yellowstone Aviation & Marine
2. All emails from any and all of former U.S. Commandant Robert J. Papp, Jr's email accounts from the period of May 25, 2010 through December 31 2010, referencing Piano Bar, Yellowstone, Yellowstone Aviation & Marine and Blixseth.

Your request was received in this office on August 21<sup>st</sup>, 2018.

This is not a Denial. We conducted a comprehensive search of files and/or servers within the offices of the Coast Guard CIO, the Coast Guard Cyber Command, the Coast Guard Historian, U.S. Coast Guard Headquarters and the Office of the Commandant for records that would be responsive to your request. Unfortunately, we were unable to locate or identify any responsive records. For emails, searchers included Mr. Paul Limbacher, who directed the searches in those offices using the keywords Blixseth, Piano Bar and Yellowstone if applicable. No searchable records were located. For documents, in accordance with the Coast Guard Information and Life Cycle Management Manual, Commandant Instruction M5212.12A, general Coast Guard correspondence and general records are required to be disposed of three years after creation, therefore, records from the 2010 timeframe would have been destroyed by the start of 2014.

If you need any further assistance or would like to discuss any aspect of your request, please contact the return address above that processed your request. You may send an e-mail to [efoia@uscg.mil](mailto:efoia@uscg.mil) or you may contact our FOIA Public Liaison, Mrs. Amanda Ackerson, at (202) 475-3522 in the same manner. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Contacting the FOIA Public Liaison or OGIS does not stop the 90-day appeal clock and is not a substitute for filing an administrative appeal. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records

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Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with the response to this request, you have the right to appeal. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to: Commandant (CG-611), ATTN: FOIA APPEALS, 2703 Martin Luther King Ave STOP 7710, Washington DC, 20593-7710, following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at [www.dhs.gov/foia](http://www.dhs.gov/foia).

If you need to contact our office concerning this request, please call (202) 475-3460 and refer to FOIA request 2018-CGFO-01591.

Sincerely,

*James D. Roppsel*  
U. S. Coast Guard